



General Assembly

Substitute Bill No. 6187

January Session, 2009

* HB06187APP 051209 *

AN ACT MANDATING EMPLOYERS PROVIDE PAID SICK LEAVE TO EMPLOYEES.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. (NEW) (*Effective January 1, 2010*) As used in this section
2 and sections 2 to 5, inclusive, of this act:

3 (1) "Child" means a biological, adopted or foster child, stepchild or
4 legal ward of an employee;

5 (2) "Day or temporary worker" means an individual who performs
6 work for another on (A) a per diem basis, or (B) an occasional or
7 irregular basis for only the time required to complete such work,
8 whether such individual is paid by the person for whom such work is
9 performed or by an employment agency or temporary help service, as
10 defined in section 31-129 of the general statutes;

11 (3) "Employee" means any person engaged in service to an employer
12 in the business of the employer who is (A) paid on an hourly basis, or
13 (B) not exempt from the minimum wage and overtime compensation
14 requirements of the Fair Labor Standards Act of 1938 and the
15 regulations promulgated thereunder, as amended from time to time,
16 but shall not include day or temporary workers and employees of any
17 constituent unit of the state system of higher education, as defined in
18 section 10a-1 of the general statutes, who are part-time or adjunct

19 faculty members, university assistants working less than twenty hours
20 per week, educational assistants or other part-time professional
21 employees;

22 (4) "Employer" means any person, firm, business, educational
23 institution, nonprofit agency, corporation, limited liability company or
24 other entity that employs fifty or more persons in the state;

25 (5) "Family violence" has the same meaning as provided in section
26 46b-38a of the general statutes;

27 (6) "Retaliatory personnel action" means any termination,
28 suspension, constructive discharge, demotion, unfavorable
29 reassignment, refusal to promote, disciplinary action or other adverse
30 employment action taken by an employer against an employee; and

31 (7) "Sexual assault" means any act that constitutes a violation of
32 section 53a-70, 53a-70a, 53a-70b, 53a-71, 53a-72a, 53a-72b or 53a-73a of
33 the general statutes.

34 Sec. 2. (NEW) (*Effective January 1, 2010*) (a) Each employer shall
35 provide paid sick leave annually to each of such employer's employees
36 in the state. Such paid sick leave shall accrue (1) from the
37 commencement of an employee's employment, (2) at a rate of one hour
38 of paid sick leave for each forty hours worked by an employee, and (3)
39 in one-hour increments up to a maximum of fifty-two hours per year.

40 (b) An employee shall be entitled to the use of accrued paid sick
41 leave upon the completion of the employee's one thousand fortieth
42 hour of employment from the date of hire, unless the employer agrees
43 to an earlier date. Each employee shall be entitled to carry over a
44 maximum of fifty-two hours of unused accrued paid sick leave from
45 the current year, whether calendar or fiscal, to the following year. Each
46 employee shall be entitled to use a maximum of fifty-two hours of
47 accrued paid sick leave per year.

48 (c) An employer shall be deemed to be in compliance with this

49 section if the employer offers any other paid leave, or combination of
50 other paid leave that (1) may be used for the purposes of section 3 of
51 this act, and (2) is accrued in total at a rate equal to or greater than the
52 rate described in subsections (a) and (b) of this section. For the
53 purposes of this subsection, "other paid leave" may include, but is not
54 limited to, flextime, compensatory time, paid vacation, personal days
55 or paid time off.

56 (d) Each employer shall pay each employee for paid sick leave at a
57 pay rate equal to the greater of either (1) the normal hourly wage for
58 that employee, or (2) the minimum fair wage rate under section 31-58
59 of the general statutes in effect for the pay period during which the
60 employee used paid sick leave.

61 (e) Nothing in sections 1 to 5, inclusive, of this act shall be construed
62 to (1) prevent employers from providing more paid sick leave than is
63 required under this section and section 3 of this act, (2) diminish any
64 rights provided to any employee under a collective bargaining
65 agreement, or (3) preempt or override the terms of any collective
66 bargaining agreement effective prior to January 1, 2010.

67 (f) Notwithstanding the provisions of sections 1 to 5, inclusive, of
68 this act and upon the mutual consent of the employee and employer,
69 an employee that chooses to work additional hours or shifts during the
70 same or following pay period, in lieu of hours or shifts missed, shall
71 not use paid sick leave, provided the employer does not require the
72 employee to work such additional hours or shifts.

73 Sec. 3. (NEW) (*Effective January 1, 2010*) (a) An employer shall permit
74 an employee to use paid sick leave:

75 (1) For (A) an employee's illness, injury or health condition, (B) the
76 medical diagnosis, care or treatment of an employee's mental or
77 physical illness, injury or health condition, or (C) preventative medical
78 care for an employee;

79 (2) For (A) a child's illness, injury or health condition, (B) the

80 medical diagnosis, care or treatment of a child's mental or physical
81 illness, injury or health condition, or (C) preventative medical care for
82 a child;

83 (3) Where an employee is a victim of family violence or sexual
84 assault (A) for medical care or psychological or other counseling for
85 physical or psychological injury or disability, (B) to obtain services
86 from a victim services organization, (C) to relocate due to such family
87 violence or sexual assault, or (D) to participate in any civil or criminal
88 proceedings related to or resulting from such family violence or sexual
89 assault.

90 (b) If an employee's need to use paid sick leave is foreseeable, an
91 employer may require advance notice, not to exceed seven days prior
92 to the date such leave is to begin, of the intention to use such leave. If
93 an employee's need for such leave is not foreseeable, an employer may
94 require an employee to give notice of such intention as soon as
95 practicable. For paid sick leave of three or more consecutive days, an
96 employer may require reasonable documentation that such leave is
97 being taken for the purpose permitted under subsection (a) of this
98 section. If such leave is permitted under subdivisions (1) and (2) of said
99 subsection (a), documentation signed by a health care provider who is
100 treating the employee or the employee's child indicating the need for
101 the number of days of such leave shall be considered reasonable
102 documentation. If such leave is permitted under subdivision (3) of said
103 subsection (a), a court record or documentation signed by an employee
104 or volunteer working for a victim services organization, an attorney, a
105 police officer or other counselor involved with the employee shall be
106 considered reasonable documentation.

107 (c) Nothing in sections 1 to 5, inclusive, of this act shall be deemed
108 to require any employer to provide paid sick leave for an employee's
109 leave for any purpose other than those described in this section.

110 (d) Unless an employee policy or collective bargaining agreement
111 provides for the payment of accrued fringe benefits upon termination,

112 no employee shall be entitled to payment of unused accrued sick time
113 under this section upon termination of employment.

114 Sec. 4. (NEW) (*Effective January 1, 2010*) (a) No employer shall take
115 retaliatory personnel action or discriminate against an employee
116 because the employee (1) requests or uses paid sick leave in
117 accordance with sections 2 and 3 of this act, or (2) files a complaint
118 with the Labor Commissioner alleging the employer's violation of
119 sections 2 to 5, inclusive, of this act. The Labor Commissioner shall
120 administer this section within available appropriations.

121 (b) Any employer who is found by the Labor Commissioner, by a
122 preponderance of the evidence, to have violated the provisions of
123 sections 2 to 5, inclusive, of this act shall be liable to the Labor
124 Department for a civil penalty of six hundred dollars for each
125 violation. The Labor Commissioner may award the employee all
126 appropriate relief, including rehiring or reinstatement to the
127 employee's previous job, payment of back wages and reestablishment
128 of employee benefits to which the employee otherwise would have
129 been eligible if the employee had not been subject to such retaliatory
130 personnel action or discriminated against. Any party aggrieved by the
131 decision of the commissioner may appeal the decision to the Superior
132 Court in accordance with the provisions of chapter 54 of the general
133 statutes.

134 Sec. 5. (NEW) (*Effective January 1, 2010*) Each employer subject to the
135 provisions of section 2 of this act shall, at the time of hiring, provide
136 notice to each employee (1) of the employee's entitlement to sick leave,
137 the amount of sick leave provided and the terms under which sick
138 leave may be used, (2) that retaliation by the employer against the
139 employee for requesting or using sick leave is prohibited, and (3) that
140 the employee has a right to file a complaint with the Labor
141 Commissioner for any violation of sections 2 to 5, inclusive, of this act.
142 Employers may comply with the provisions of this section by
143 displaying a poster in a conspicuous place, accessible to employees, at
144 the employer's place of business that contains the information required

145 by this section in both English and Spanish. The Labor Commissioner
146 may adopt regulations, in accordance with chapter 54 of the general
147 statutes, to establish additional requirements concerning the means by
148 which employers shall provide such notice. The Labor Commissioner
149 shall administer this section within available appropriations.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>January 1, 2010</i>	New section
Sec. 2	<i>January 1, 2010</i>	New section
Sec. 3	<i>January 1, 2010</i>	New section
Sec. 4	<i>January 1, 2010</i>	New section
Sec. 5	<i>January 1, 2010</i>	New section

APP *Joint Favorable Subst.*